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VIA ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
455 12th Street SW
Washington, DC 20554

**Re: Improving Competitive Access to MTEs, GN Docket No. 17-142
Petition for Preemption of Article 52, MB Docket No. 17-91**

Dear Ms. Dortch,

On June 27, 2019, Steve Morris of NCTA – The Internet & Television Association, Beth Choroser and Jordan Goldstein of Comcast, and Barry Ohlson, on behalf of Cox Communications, met with Nirali Patel, Wireline Advisor to Chairman Pai, to discuss the draft Notice of Proposed Rulemaking and Declaratory Ruling in the above-referenced proceedings.¹

In the meeting, NCTA reiterated the technical concerns expressed in its comments in these proceedings about the sharing of “in-use” wiring.² To better implement the policy underlying the proposed Declaratory Ruling, we encouraged the Commission to make clear that the definition of in-use wiring includes not just wiring to serve a particular unit, but applies to wiring currently being used to provide service in the MTE more generally (e.g., in-building WiFi, smart building technology).

NCTA also suggested two changes to the proposed Notice of Proposed Rulemaking. First, we encouraged the Commission to more clearly address the question of whether, consistent with the goal of regulatory parity, MTE regulations should apply equally to all competitors in the MTE marketplace. We urged the Commission to seek comment on including entities that are not considered cable operators under Title VI or telecommunications carriers under Title II, as well as the implications for consumers, and for competition, of regulating some providers but not others.³ Second, as the Commission did in the Notice of Inquiry in GN Docket No. 17-142, we

¹ *Improving Competitive Broadband Access to Multiple Tenant Environments*, GN Docket No. 17-142, MB Docket No. 17-91, Notice of Proposed Rulemaking and Declaratory Ruling, FCCCIRC 1907-04 (rel. June 19, 2019).

² *See* NCTA Comments, MB Docket No. 17-91, at 4-6 (May 18, 2017); NCTA Comments, GN Docket No. 17-142, at 3-5, 10-11 (July 24, 2017).

³ The Commission has previously sought comment on including non-cable MVPDs in its MTE-related requirements. *See Exclusive Service Contracts for Provision of Video Services in Multiple Dwelling Units and*

encouraged the Commission to solicit comment on whether it should revisit its determination that Section 628(b) extends to matters that do not explicitly involve access to satellite-delivered cable programming.⁴ In both cases, the additional questions requested by NCTA will help the Commission build a more complete record on which to consider whether additional rules, if any, are warranted.

Respectfully submitted,

/s/ Steven F. Morris

Steven F. Morris

cc: N. Patel

Other Real Estate Developments, Report and Order and Further Notice of Proposed Rulemaking, 22 FCC Rcd 20235, 20264-65, ¶¶ 61-62 (2007) (noting Section 335, Title III generally, Title VI, and ancillary authority as possible sources of authority).

⁴ *Improving Competitive Broadband Access to Multiple Tenant Environments*, GN Docket No. 17-142, Notice of Inquiry, 32 FCC Rcd 5383, 5390, ¶ 18 (2017).